IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

OP.No. 433 of 1999(B)

PETITIONER:

**BET MEDICAL (P) LTD; C.P.UMMER ROAD,
ERNAKULAM, REP: BY IT'S BRANCH,
MANAGER, BIJU JOSEPH.**

BY ADV. SRI.B.N.SHIVSANKAR

RESPONDENTS:

**1) THE ADDITIONAL DIRECTOR OF
HEALTH SERVICES (MEDICAL),
DIRECTORATE OF HEALTH SERVICES,
THIRUVANANTHAPURAM – 37.**

**2) STATE OF KERALA, REP: BY SECRETARY,
HEALTH MINISTRY, THIRUVANANTHAPURAM.**

**3) C.MEE INDIA, VARUMBASSERY ROAD,
THIRUVANANTHAPURAM, KUNNAKUZHY.**

**BY ADV. SRI.K.P.SATHEESAN
GOVERNMENT PLEADER SRI.P.A.SALIM.
SRI.K.V.GOPINATHAN NAIR**

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 02/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS:-

Ext.P1:	**Copy of certificates.**
Ext.P2:	**Copy of the tender notification.**
Ext.P3:	**Copy of the quotations dtd.14-11-1998.**
Ext.P4:	**Copy of the quotations dtd.14.11.1998.**
Ext.P5:	**Copy of the letter dtd.15-12-1998.**
Ext.P5(a):	**Copy of the postal cover.**
Ext.P6:	**Copy of the message dated 21-12-1998.**
Ext.P7:	**Copy of the letter dtd.23.12.1998.**
Ext.P8:	**Copy of the letter dtd.28-12-1998.**
Ext.P9:	**Copy of the Board resolution of petitioner company.**

RESPONDENTS' EXHIBITS:-

Ext.R3(a):	**Copy of Special Conditions.**
Ext.R3(b):	**Copy of Certificate issued by DMO., Malappuram.**
Ext.R3(c):	**Copy of certificate issued by Superintendent, Taluk Headquarters Hospital, Chirayinkil.'**
Ext.R3(d):	**Copy of certificate issued by Paediatrician, Govt. Women's and Children's Hospital, Thycaud.**
Ext.R3(e):	**Copy of letter dtd.17-12-1997 of the District Medical Officer, Kannur.**
Ext.R3(f):	**Copy of certificate issued by Paediatrician, Govt. Hospital, Peroorkada.**
Ext.R3(g):	**Copy of certificate issued by Paediatrician, Headquarters Hospital, Neyyattinkara.**
Ext.R3(h):	**Copy of certificate issued by Superintendent, Taluk Headquarters Hospital, Nedumangad.**
Ext.R3(i):	**Copy of litrature on 3rd respondent's products.**

(true copy)

P.S. TO JUDGE.

kvs/-

T.R. Ramachandran Nair, J.

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O.P.NO. 433 of 1999-B

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Dated this the 2nd day of November, 2007

JUDGMENT

The original petition was filed mainly for a direction to the first respondent not to award the tender for supply of machinery as per Ext.P1 notice, without allowing the petitioner reasonable opportunity for demonstration of his machinery.

2. Respondents 1 and 3 have filed counter affidavits. In the counter affidavit filed by the first respondent, it is pointed out that as per tender condition No.2, samples were compulsory and samples should be submitted on or before the opening of tenders, i.e., on or before 18.11.1998 and that offers without samples would be summarily rejected. The tenders were opened on 18.11.1998 at 11.30 a.m. as per schedule, in the chamber of the Additional Director of Health Services (Medical) in the presence of tenderers. The representative of the petitioner's company was also present at the opening, but the firm did not produce any sample nor has it asked for further time to produce samples. It is averred that the technical committee met on 22.12.1998 considered all the three samples and inspected the equipment point in detail. The lowest rate quoted and the best sample was

accepted.

There was no interim order in this case and due to efflux of time, the matter has become infructuous. Apart from that, going by the averments in the counter affidavit, the procedure adopted by the respondents are not tainted at all.

For all these reasons, the original petition is dismissed.

(T.R. Ramachandran Nair, Judge.)

kav/

T.R. Ramachandran Nair, J.

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O.P. No.433 of 1999-B

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JUDGMENT

2nd November, 2007.